

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2 VINCE PANESKO, et al.,

3
4 Petitioners,

5 v.

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7 LEWIS COUNTY,

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9 Respondent,

10 and

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12 *LEWIS COUNTY ECONOMIC DEVELOPMENT*
13 COUNCIL & INDUSTRIAL LANDS ADVISORY TASK
14 FORCE,

15 Intervenor

No. 00-2-0031c

**ORDER FINDING
CONTINUING
NONCOMPLIANCE
AND SETTING NEW
COMPLIANCE
SCHEDULE**

16
17 EUGENE BUTLER, et al.,

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19 Petitioners,

20 v.

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22 LEWIS COUNTY,

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24 Respondent,

25 and

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27 CITY OF CENTRALIA, et al.,

28
29 Intervenor

No. 99-2-0027c

**ORDER FINDING
CONTINUING
NONCOMPLIANCE AND
SETTING NEW
COMPLIANCE
SCHEDULE**

1 THESE Matters came before the Board in a compliance hearing regarding those issues relating to
2 incompatible uses in resource lands that were found noncompliant in the Board's Compliance Order
3 in the above-captioned cases, dated February 13, 2004. The telephonic compliance hearing was held
4 on February 1, 2005. Douglas Jensen appeared representing the County. Eugene Butler, Vince
5 Panesko, Susan Roth, Richard Roth, and June Wristen-Mooney (for the Evaline Community
6 Association) appeared telephonically. All three board members attended.
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8 9 **PROCEDURAL BACKGROUND**

10 On August 30, 2004, the Board entered an Order Extending Compliance Period and Setting New
11 Schedule for Briefing and Hearing in response to the County's timely request for additional time.
12 This order bifurcated the compliance schedule between issues related to incompatible uses and issues
13 related to designation of agricultural resource lands. However, on January 12, 2005 the County filed
14 a second motion to extend the compliance date and schedule, asking in essence to combine the
15 designation issues and the issues related to incompatible uses into a single compliance proceeding.
16 Motion of Lewis County To Extend Compliance Report Date for January 10, 2005 on Issues Related
17 to Incompatible Uses.¹ The "Butler Petitioners"² filed their response to the County's request for an
18 extension on January 18, 2005. Response to County Motion for Continuance. Petitioner Panesko
19 filed his response and request for sanctions on January 19, 2005. Petitioner Response to Lewis
20 County Motion to Extend Compliance Date; Motion to Request Sanctions. The County responded
21 with it Supplemental Responses of Lewis County to Compliance and Extend Compliance Report
22 Date for January 10, 2005 on Issues Related to Incompatible Uses on January 26, 2005.
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29 ¹ The County asserts that it filed this motion on January 10, 2005, the deadline for compliance under the Board's last
30 extension order. Supplemental Responses of Lewis County to Compliance and Extend Compliance Report Date for
31 January 10, 2005 on Issues Related to Incompatible Uses. Petitioners argue that this motion was not timely filed and
32 served. Response to County Motions for Continuance. The Board records do not show a filing prior to January 12, 2005
and therefore this matter was set for a compliance hearing as required by RCW 36.70A.330(1).

² Annette Yanisch, Douglas Hayden, Michael Vinatieri, Deanna Zieske, Eugene Butler, Debra Ertel Burris, Edward
Smethers, Richard Roth, Karen Knutsen, Dorothy Smith, John Mudge, Valerie Gore, Susan Roth, Brenda Boardman, and
Evaline Community Association.

1 On January 21, 2005, the Board issued its Order Setting Telephonic Compliance Hearing for
2 February 1, 2005. Unfortunately, there was a technical failure in the Board's computer system and
3 the mailing list for the parties in this case had to be reconstructed. As a result, some parties did not
4 receive notice of this telephonic hearing until the business day before the hearing. The Board
5 apologizes for this problem and excuses any party who was unable to attend as a result.
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7 8 **CONTINUING NONCOMPLIANCE AND INVALIDITY**

9 All parties agree that the County has not yet achieved compliance with respect to the issues regarding
10 incompatible uses in resource lands for which noncompliance was found in the Board's February 13,
11 2004 order. Further, the County has not acted to remove substantial interference with the goals of the
12 GMA found in the February 13, 2004 order. However, the County has undertaken major work
13 towards addressing noncompliance and invalidity issues found in the February 13, 2004 order,
14 including restructuring its Planning Commission. Therefore, the Board finds:
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- 16 • The County is in continuing noncompliance with respect to the issues relating to incompatible
17 uses found in the February 13, 2004 Compliance Order in the above-entitled cases.
- 18 • The County has failed to lift invalidity with respect to those non-complying uses that were
19 also found invalid in the February 13, 2004 Compliance Order.
- 20 • The County is working to respond to the Board's findings of noncompliance and invalidity
21 and therefore sanctions are not warranted at this time.
- 22 • It is reasonable for the County's Technical Advisory Committee to address the issues relating
23 to incompatible uses in natural resource lands together with the issues related to the
24 designation of agricultural resource lands.
- 25 •

26 27 **ORDER**

28 The Board hereby ORDERS that the County shall achieve compliance with respect to the issues
29 relating to incompatible uses in resource lands as set out in the February 13, 2004 Compliance Order
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on or before March 24, 2005, the same date upon which compliance is due as to the issues related to designation of agricultural lands in the above-entitled cases and as to the rural lands issues in the *Yanisch v. Lewis County*, WWGMHB Case No. 02-2-0007c case.

The County is further ORDERED to provide a written progress report to the Board and to all the parties in the referenced three cases on or before February 28, 2005. This progress report should include a description of meetings and hearings that have occurred or are scheduled relative to the issues on which compliance is due March 24, 2005.

The County is further ADVISED that any request for an extension of the March 24, 2005 compliance due date must be made by motion and filed with the Board and served on all parties no later than February 28, 2005.

The following schedule shall apply in all three cases:

Progress Report Due	February 28, 2005.
Motion for Extension (if needed) due	February 28, 2005.
Compliance Due	March 24, 2005
Compliance Report Due	March 31, 2005
Index Due	April 7, 2005
Additions to Index Due	April 18, 2005
Written Objections to a Finding of Compliance Due	April 21, 2005
Response to Objections to a Finding of Compliance Due	May 12, 2005
Compliance Hearing	May 24, 2005.

The compliance hearing on the County's compliance as ordered in *Yanisch v. Lewis County*, WWGMHB Case No. 02-2-0007c, *Panesko v. Lewis County*, WWGMHB Case No. 00-2-0031c, and

1 *Butler v. Lewis County*, WWGMHB Case No. 99-2-0027c will be held on May 24, 2005 at Old Lewis
2 County Courthouse, Commissioners' Hearing Room – 2nd Floor, 351 NW North, Chehalis,
3 Washington beginning at 9:30 a.m.
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5 ENTERED this 3rd day of February 2005.
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Margery Hite, Board Member

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12 Holly Gadbaw, Board Member
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16 Gayle Rothrock, Board Member
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